IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SECOND DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 21262 of 2004

Between:

M/s Shanti Hospitals H.No.16-2-742/F/4, Andhra Bank Colony
Dilsukhnagar, Hyderabad-36 rep. by Smt.T.Veena.

..... PETITIONER

AND

The Assistant Provident Fund Commissioner Enforcement Andhra Pradesh,
Barkatpura, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction more particularly one in the nature of writ of Mandamus declaring the action of the respondents in issuing proceedings U/s 7 (a) of the Employees Provident Fund and Miscellaneous Provisions Act 1952 dt.19.8.2004 in their letter AP/43757 for payment of P.F Amount of Rs.2,39,233/- (Rupees two lakhs thirty three thousands three hundred and thirty three only) is illegal arbitrary unconstitutional and beyond the Jurisdiction and consequently to set aside the same.

Counsel for the Petitioner: MR.S.PRASAD RAO

Counsel for the Respondent.: MR.R.N.REDDY

The Court made the following :

The writ petition is filed questioning the proceedings of the respondent – Assistant Provident Fund Commissioner dated 19-8-2004 directing the petitioner-Hospital to pay an amount of Rs.2,39,233 under the provisions of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (for brevity 'the Act').

The case of the petitioner – Hospital is that the Hospital is running old age home managed by Viswa Shanti Society, which was registered under the A.P. Societies Registration Act, 2001 and its object is to render social service by attending to the medical needs of the aged people. It is stated the the Hospital is being run with the assistance of 13 trainee employees only and it does not attract the provisions of the Act. Alleging that without considering the said fact and without issuing any notice the respondent has passed the impugned order directing the petitioner to pay an amount of Rs.2,39,233/-, the present writ petition is filed.

Heard the learned counsel for the petitioner and Ms.B.Kavitha Reddy, learned standing counsel for the respondent.

Learned counsel for the petitioner submits that since the impugned order is passed without notice and opportunity of hearing to the petitioner, the same is liable to be liable to be set aside.

The learned standing counsel for the respondent, on the other hand, submits that the petitioner was covered under the Provisions of the Act with effect 1-1-2003 under Code No.AP/43757 and he was given notices to decide the applicability of the Act, but the respondent has not chosen to appear before the respondent and therefore the impugned order came to be passed.

In the circumstances, I deem it appropriate to dispose of the writ petition, at the stage of admission, with the following directions:

The respondent is directed to reconsider the issue of applicability of the Act to the petitioner after issuing registered notice to the petitioner and taking into

consideration the explanation of the petitioner and pass appropriate orders afresh. Till such time, the impugned order shall not be enforced against the petitioner on condition of the petitioner depositing half of the amount demanded in the impugned order within four weeks from today. In the event the respondent comes to the conclusion that the petitioner does not come under purview of the provisions of the Act, the respondent shall return the amount deposited the by the petitioner, lest the amount shall be adjusted towards the amount payable by the petitioner.

The writ petition is accordingly disposed of. No costs.

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22-11-2004

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To

1.The Assistant Provident Fund Commissioner Enforcement Andhra Pradesh, Barkatpura, Hyderabad.

2. Two C.D. copies